

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1438

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 27-129, Arizona Revised Statutes, is amended to
3 read:

4 27-129. Locating abandoned mines; public education

5 A. Subject to legislative appropriation, the state mine inspector
6 shall establish a program to locate, inventory, classify and eliminate public
7 safety hazards at abandoned mines as defined in section 27-301. The state
8 mine inspector shall spend state appropriated monies to locate, inventory,
9 classify and eliminate public safety hazards at abandoned mines on state land
10 first and thereafter any public safety hazards at abandoned mines on land not
11 owned by this state.

12 B. Using reasonable efforts, the state mine inspector shall attempt to
13 notify in writing the owner, or other responsible party, of an abandoned mine
14 at which a public safety hazard exists of the requirements of section 27-318
15 with respect to abandoned mines.

16 C. The state mine inspector may establish public education programs to
17 recognize and avoid public safety hazards at abandoned mine sites.

18 D. To accomplish the purposes of this section, the state mine
19 inspector may accept monies for deposit in the state general fund received
20 from any source, including restricted or unrestricted federal funds, gifts
21 and contributions from other governmental agencies, individuals, corporations
22 or other organizations. The state shall separately account for monies that
23 are received pursuant to this subsection and that are deposited in the state
24 general fund.

25 E. The state mine inspector may enter into intergovernmental
26 agreements with Indian tribes in the state to extend the abandoned mine
27 program onto tribal lands.

F. THE STATE MINE INSPECTOR MAY ACCEPT IN-KIND DONATIONS OF MATERIAL, EQUIPMENT OR SERVICES TO ELIMINATE PUBLIC SAFETY HAZARDS AT AN ABANDONED MINE FROM ANY PERSON, PUBLIC ENTITY OR OTHER LEGAL ENTITY.

G. A PERSON, PUBLIC ENTITY OR OTHER LEGAL ENTITY WHO MAKES DONATIONS PURSUANT TO THIS SECTION OR SECTION 27-131 SHALL NOT BE LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR ANY INJURY OR DEATH RELATED TO THE ELIMINATION OF PUBLIC SAFETY HAZARDS AT AN ABANDONED MINE UNLESS THE INJURY OR DEATH IS A DIRECT RESULT OF THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF THE DONOR.

Sec. 2. Repeal

Section 27-130, Arizona Revised Statutes, is repealed.

Sec. 3. Section 27-318, Arizona Revised Statutes, is amended to read:

27-318. Abandoned and inactive mines to be secured; inspector authority; violation; classification

A. Every mine operator or former mine operator or claimant who owns a mine or mining claim or possesses a mine or mining claim under lease, contract, permit or otherwise, who knowingly permits the existence on the premises of an abandoned or inactive mining shaft, portal, pit or other excavation which is dangerous to persons legally on the premises, who fails to cover, fence, fill or otherwise secure it and post warning signs, within sixty days of notification by the inspector and who fails to keep it so protected is guilty of a class 2 misdemeanor. If it is impossible or impracticable to comply with this subsection within the required sixty days, the operator may submit a written plan of action to the inspector which specifically outlines the measures that will be taken and the number of additional days necessary to comply with this section. In no case may the time extension granted by the inspector exceed an additional one hundred eighty days.

B. The inspector may enter on such land to inspect for dangerous conditions which may present a health and safety hazard to the public. If hazards exist, the inspector may erect warning signs across or near the entrance of any mine shaft, portal, pit or other mine opening prohibiting the entry of unauthorized persons or erect other protective devices as necessary.

1 C. If the mine operator cannot be located through reasonable efforts,
2 the owner of record is the responsible party for the purposes of this
3 section. If neither the mine operator or owner of record can be located
4 through reasonable efforts, the inspector shall erect warning signs across or
5 near the entrance of any mine shaft, portal, pit or other mine opening
6 prohibiting entry of unauthorized persons or erect other protective devices
7 as necessary.

8 D. A person who knowingly and without authority removes, destroys or
9 tampers with any warning sign, covering, fencing or other protection placed
10 on, around or over any shaft, portal or other excavation is guilty of a class
11 6 felony.

12 E. ANY REASONABLE AND NECESSARY COST INCURRED BY THE STATE MINE
13 INSPECTOR PURSUANT TO THIS SECTION MAY BE RECOVERED IN A CIVIL ACTION BROUGHT
14 BY THE ATTORNEY GENERAL AGAINST ANY RESPONSIBLE PARTY.

15 Sec. 4. Section 44-1304, Arizona Revised Statutes, is amended to read:

16 44-1304. Disposal of waste tires

17 A. The disposal of waste tires in landfills and the incineration of
18 those tires is prohibited, except as provided in subsection C or D of this
19 section or in accordance with rules adopted by the director of the department
20 of environmental quality. An owner or operator of a solid waste disposal
21 site shall not knowingly accept waste tires for disposal.

22 B. A person shall not dispose of motor vehicle waste tires unless the
23 waste tires are disposed of at a waste tire collection site or as provided in
24 subsection C or D of this section or in accordance with rules adopted by the
25 director of the department of environmental quality.

26 C. Off-road motor vehicle waste tires shall not be disposed of or
27 reused except in accordance with the provisions of this article or rules
28 adopted by the director of the department of environmental quality. In the
29 absence of rules, off-road motor vehicle waste tires shall not be disposed of
30 or put to beneficial use in a manner that results in an environmental
31 nuisance pursuant to section 49-141. Mining industry off-road motor vehicle
32 waste tires may be disposed of by burial at a mining facility in the same

1 manner permitted by rule in effect on February 1, 1996 until the director by
2 rule determines on-site recycling methods that are technically feasible and
3 economically practical.

4 D. The following are permissible methods of waste tire disposal:

5 1. Retreading or recapping.
6 2. Constructing collision barriers.
7 3. Controlling soil erosion or for flood control only if used in
8 accordance with approved engineering practices.

9 4. Chopping or shredding for use as waste tire daily cover MATERIAL at
10 a solid waste landfill.

11 5. Grinding for use in asphalt and as a raw material for other
12 products.

13 6. Sludge composting.
14 7. Using as playground equipment.
15 8. Incinerating or using as a fuel or pyrolysis if permitted by laws,
16 regulations or ordinances relating to burning or fuel.

17 9. Hauling to out-of-state collection or processing sites.
18 10. Tire monofills if tires are chopped or shredded.
19 11. Use as a building material for building construction in accordance
20 with applicable city, town and county building codes.

21 12. Agricultural purposes as bumpers on agricultural equipment or as
22 ballast to maintain covers at an agricultural site.

23 13. USE AS FILL MATERIAL FOR THE CLOSURE OF ABANDONED MINES WITH FINAL
24 COVER CONSISTING OF EARTHEN MATERIAL THAT IS AT LEAST TEN FEET DEEP.

25 E. For purposes of subsection D:~~, paragraph 10 of this section,~~
26 1. "ABANDONED MINE" HAS THE SAME MEANING AS PRESCRIBED IN SECTION 27-
27 301.

28 2. "Tire monofill" means a solid waste disposal facility or a part of
29 a facility used for the exclusive purpose of the disposal of waste tires
30 which are chopped, shredded or cut up for the purpose of disposal.

31 F. The director of the department of environmental quality, by rule,
32 may authorize other methods of disposal of waste tires. If used as daily

1 cover material for a solid waste landfill, the director shall specify the
2 size of the parts into which the material must be cut.

3 G. Each county shall provide at least one designated waste tire
4 collection site in the county to receive waste tires from a seller of motor
5 vehicle tires or the seller's designee complying with section 44-1302.
6 Additional waste tire collection sites or disposal arrangements shall be
7 established by the county as necessary for the disposal of waste tires as
8 provided in subsection B of this section. All collection sites established
9 under this subsection shall comply with applicable zoning and ordinance
10 regulations. The county or private enterprise receiving waste tire fund
11 monies from a county shall not impose a tire tipping fee and shall not refuse
12 to accept waste tires from a seller of motor vehicle tires or the seller's
13 designee complying with section 44-1302, unless provided for in section 44-
14 1302, subsection H.

15 H. The director of the department of environmental quality shall issue
16 or revise a permit required pursuant to title 49, chapter 3, article 2 for a
17 facility that applies to the department of environmental quality for a permit
18 or a revision to a permit to burn a tire derived fuel if the applicant can
19 demonstrate that the burning of tire derived fuel will result in equal to or
20 lower emissions than the burning of other types of fuel for which the
21 department of environmental quality may issue permits and the applicant has
22 met all requirements of titles I and V of the clean air act. Any tests
23 involving tire derived fuel conducted by the United States environmental
24 protection agency or any test results involving tire derived fuel approved by
25 the United States environmental protection agency, including hazardous air
26 pollutant studies, shall be accepted by the department of environmental
27 quality. No duplicate testing by the applicant shall be required, except
28 that the applicant shall meet all testing requirements under titles I and V

Senate Amendments to S.B. 1438

1 of the clean air act. For purposes of this subsection, "clean air act" has
2 the same meaning prescribed in section 49-401.01."

3 Amend title to conform

JAKE FLAKE

2/18/08

9:45 AM

S: LB/ac